THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 23959 OF 2005

3rd January, 2006

Between:

1. D.Satyanarayana and Other …Petitioners

A N D

1. The Deputy Collector & Mandal Revenue Officer,

Serilingampally Mandal, Ranga Reddy District and

Others

….Respondent

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 23959 OF 2005

O R D E R :

1. This writ petition has been filed by the petitioners who are four in numbers questioning the inaction of the Deputy Collector and Mandal Revenue Officer,

Serilingampally Mandal, Ranga Reddy District-1st respondent on their application filed under Section 32 of the Tenancy Act, in file No. B/882/2005 in respect of the land bearing SyNo.69, 70,71,72 and 73 admeasuring Ac.2-28 guntas, situated at Nanakramguda village, Serilingampally Manda, Ranga Reddy Ditsrict.

2. When WPMPs 31672 of 2005 and 35916 of 2005 came up for consideration, with the consent of petitioners and contesting respondents, the writ petition itself is taken up for hearing.

3. The grievance of the petitioners is that the 1st respondent having passed orders under Section 40 of the A.P.(T.A.)Tenancy and Agriculture Lands Act, 1950 (hereinafter be referred to as 'the Act' for brevity) has not proceeded with the application filed by the petitioners under Section 32 of the Act and therefore, necessary direction is required to be given to the 1st respondent to dispose of the application filed under Section 32 of the Act.

4. Heard learned senior counsel for the petitioners and learned Government Pleader for Revenue.

5. Respondents No. 3 and 4 did not choose to enter their appearance and notice addressed to them returned as unclaimed. So far as 2nd respondent is concerned, learned Senior Counsel appearing for the petitioners reports that the petitioners do not claim any relief in the writ petition against her.

6. The petitioners claimed that one Bhoomaiah was the original protected tenant and therefore, they filed application before the Revenue Divisional Officer-1st respondent under Section 40 of the Act for grant of Succession Rights. Their application came to be allowed on 30-8-2005. The relevant portion of the order passed by the 1st respondent on 30-8-2005 reads as follows:

> "*As per the Revenue Records the Sy.Nos 69,70,71 & 72 measuring Ac. 0-16 gts. Ac. 1-33 guntas and Ac. 0-21 gts. respectively situated at Nanakramguda village, Serilingampally Mandal are the patta lands recorded in thename of Omsan Khan, Mohamood Khan and the name of the Madiga Bakkaiah, s/o: Bhoomaiah is recorded as Protected Tenant.*
>
> *No objections were received in response to the General notification issued and the Vakalath was filed by P. Ram*

Reddy, Advocate on behalf of Respondent 4 to 8 and their counsel have not filed any objections with regard to grant of succession of P.T. rights in favour of petitioners to the extent of Ac. 2-29 gts. i.e. ½ share of the suit lands as claimed by the petitioners. Neither Respondents nor their counsel attended the office to represent their case.

The Section 40 of A.P.(T.A.)Tenancy and Agriculture Lands act, 1950 reads as follows:

"40 Rights of P.T. heritable.

1. *All rights of a P.T. shall be heritable*
2. *If an P.T. die his heir shall be entitled to hold the Tenancy on the same terms and conditions on which such P.T. was holding the land at the time of his death .*
3. *If a P.T. dies without leaving any heirs, all his rights shall be extinguished.*

Explanation: The following persons only shall be deemed to be the heirs of PT for the purpose of this Section:

a. *his legitimate lineal descendants by blood or adoption*

b. *in the absence of any such descendants, his widow for so long as she does not remarry.*

In pursuance of the above provisions the petitioners are found lineal descendents of the deceased Protected Tenant to an extent of ½ share in respect of land in Sy.Nos. (s) 69, 70,71,72 & 73 of Nanakramguda village, Serilingampally Mandal, Ranga Reddy District, and hence succession is grant in favour of petitioners U/s.40 of A.P. (T.A.) Tenancy and Agriculture Lands Act, 1950. Therefore, it is orders to record the names of petitioners as Legal Heirs of P.T. against the suit land".

7. Subsequent to the issuance of successions rights under Section 40 of the Act, the petitioners stated to have filed petition on 5-9-2005 under Section 32 of the Act seeking restoration of possession of land. Learned senior counsel for the petitioners submits that 1st respondent ordered notice to the opposite parties directing them to appear on 24-9-2005 and thereafter no proceedings have been taken. Thus, the petitioners are compelled to approached this Court by invoking extra ordinary

jurisdiction under Article 226 of the Constitution of India with the prayed stated supra.

8. Copy of the order dated 30-08-2005 passed by the 1st respondent has been placed on record. A plain reading of the order indicates that the petitioners have been recognized as lineal descendants of the original protected tenant along with others and succession rights have been granted. 1st respondent having entertained the application under Section 32 of the Act is required to pas appropriate orders thereon.

9. Such is the situation, I deem it appropriate to dispose of the writ petition directing the 1st respondent to pass appropriate orders on the application filed by the petitioner under Section 32 of the Act within six weeks from the date of receipt of a copy of this order. Till the application of the petitioners is disposed of, the status quo granted on 2-12-2005 shall continue. No order as to costs.

Justice B.Seshasayana Reddy

3rd January, 2005

C.C. in three days

B/o

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